

July 30, 2012

Honorable Julius Genachowski  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> St., SW, Room TW- A325  
Washington, DC 20554

Submitted online via <http://apps.fcc.gov/ecfs/>

Comments to the Federal Communications Commission on  
**“Privacy and Security of Information Stored on Mobile Communications Devices”**  
*CC Docket No. 96-115*

Consumer Action appreciates the opportunity to comment on the FCC’s request, made jointly along with the Wireline Competition Bureau, Wireless Telecommunications Bureau, and Office of General Counsel, for input on how to update the agency’s guidelines on how to address emerging uses and technologies related to the consumer privacy and data-security practices of mobile wireless service providers.

We believe, first and foremost, that data stored on mobile devices is under the purview of the Commission and within the purview of Section 222 the Communications Act of 1934. In the last five years, since the Commission’s last review of its 222 obligations, much has changed in the world of data storage, collection and use, particularly with regard to mobile phones and the role of wireless carriers. We think it’s an ideal time for the Commission to act in accordance with this changing landscape.

Mobile devices and the applications they have spurred have parlayed the storage and use of consumer data into a multi-billion dollar industry and because of this, we believe there is less and less incentive for companies to provide transparency and fair practices. Therefore, we believe there value in tremendous value in multiple agencies seeking to unravel some of these thorny and ever-changing issues, both those that adopt industry codes of conduct and those that seek to regulate these practices. For example, Consumer Action has been and continues to be actively involved in the work of the National Telecommunications and Information Administration’s (NTIA) multi-stakeholder process to develop industry codes of conduct as well as in the ongoing work of the Federal Trade Commission (FTC). However, it would be difficult to argue that voluntary industry self-regulation alone has been a rousing success in the past with regard to protecting the privacy of consumer information. The example of Carrier IQ underscores the need for the Commission to act in these matters.

Consumer Action has long argued that the core of consumer privacy rests in giving consumers transparency and control with regard to their data. We remain firmly committed to the concept and implementation of real-time, in-time, explicit opt-in consent for use of all CPNI data that is collected by mobile carriers. Though not all data collected by carrier would be considered CPNI, much of it most certainly is. In addition, carriers should make public their data-collection and sharing practices on an ongoing basis as well as renew consumer consent as often as practices change.

We hope the Commission will also look to the framework principles outlined in the White's House recent white paper on consumer privacy, entitled "*Consumer Data Privacy in a Networked World: A Framework for Protecting Privacy and Innovation in the Global Digital Economy*." In addition to these principles, the White House called for Congress to craft and implement comprehensive legislation that provides real-world protections for consumer personal information in a data-hungry world. And we believe that if Congress cannot act, it must be pushed to act or called to task by the organizations and officials that understand the risks of inaction, including the Commission.

Again, we appreciate the opportunity to comment on these important issues and we hope to work with you to craft effective policies that balance consumer protection and industry interests.

Thank you for your work to advance consumer privacy.

Sincerely,

Michelle De Mooy  
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Consumer Action